

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHAEL GARROW,

Plaintiff,

v.

BRIAN E. WILLIAMS, SR., et al.,

Defendants.

Case No. 2:14-cv-02143-RFB-VCF

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the court on respondents' motion to dismiss several grounds from petitioner Michael Garrow's petition (ECF No. 5). Garrow has filed a counseled response, in which he acknowledges that grounds 1, 2, 3, 4(d) and 5 of his petition are unexhausted (ECF No. 17). Garrow seeks to voluntarily dismiss these grounds and proceed with the exhausted grounds. *Id.* at 2. He requests leave to submit additional exhibits in support of his petition prior to the respondents filing their answer. While Garrow may proffer additional exhibits, the court reminds him that review under § 2254(d)(1) is limited to the record that was before the state court that adjudicated the claim on the merits. *Cullen v. Pinholster*, 563 U.S. 170, 181 (2011).

IT IS THEREFORE ORDERED that respondents' motion to dismiss (ECF No. 5) is **GRANTED**. Grounds 1, 2, 3, 4(d) and 5 are **DISMISSED without prejudice**.

IT IS FURTHER ORDERED that petitioner **SHALL FILE** any additional exhibits in support of his petition within **thirty (30) days** of the date of this order.

1 **IT IS FURTHER ORDERED** that respondents shall file an answer to petitioner's
2 remaining grounds for relief within **thirty (30) days** of the date that petitioner files any
3 additional exhibits. If petitioner does not file additional exhibits, respondents shall file
4 their answer within **sixty (60) days** of the date of this order. The answer shall contain all
5 substantive and procedural arguments as to all surviving grounds of the petition, and shall
6 comply with Rule 5 of the Rules Governing Proceedings in the United States District
7 Courts under 28 U.S.C. §2254.

8 **IT IS FURTHER ORDERED** that petitioner shall have **thirty (30) days** following
9 service of respondents' answer in which to file a reply.
10

11 DATED: 14 March 2016.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE